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Attorneys for Plaintiffs,
KASSONDRA BAAS and KELLY LOFQUIST
individually and on behalf of all employees
similarly situated

**IN THE UNITED STATE DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

KASSONDRA BAAS and KELLY
LOFQUIST, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

DOLLAR TREE STORES, INC.,

Defendant.

CASE NO. C 07-03108 JSW

**DECLARATION OF JEREMY R. FIETZ,
ESQ. IN SUPPORT OF MOTION FOR
CLASS CERTIFICATION**

Hearing Date: April 4, 2008

Time: 9:00 a.m.

Courtroom 2

Honorable Jeffrey S. White

I, JEREMY R. FIETZ, hereby declare as follows:

1. I am an attorney licensed to practice in all of the courts of the state of California as well as the Northern District Court. I am a partner with the Edgar Law Firm, counsel for plaintiff and plaintiff's class.

1 2. I have personal knowledge of the following facts and, if called as a witness could
2 and would competently testify thereto.

3 3. True and correct copies of excerpts from the deposition of Dollar Tree District
4 Manager Richard Tellstrom are attached hereto as Exhibit A. A true and correct copy of a
5 Dollar Tree policy concerning associate responsibility to clock in and out for all shifts and break
6 periods is attached hereto as Exhibit B. This document was produced by Dollar Tree and
7 authenticated by Richard Tellstrom in his deposition.

8 4. A true and correct copy of excerpts from the deposition of John Hansen are
9 attached hereto as Exhibit C.

10 5. I received my first law degree from the University of Victoria, often ranked #1
11 among Canadian Law Schools. I sat for the California Bar exam only once, in the year 1998. I
12 received my passing results while completing a Master's Degree in Law, at Widener University
13 in Delaware. While obtaining this specialty degree, I also served as a Law Clerk to the
14 Honorable Judge Marvin Halbert, of the Complex Civil Litigation Division, in the Court of
15 Common Pleas, Philadelphia, Pennsylvania.

16 6. Since beginning my law practice in the State of California I have handled several
17 Court and jury trials to verdict. Most notably, I served as trial counsel in a month- long §17200
18 case, resulting in a Plaintiff's verdict including a substantial award of attorneys' fees under
19 C.C.P. §1021.5, which then led to my successful appearance before the Third Appellate District
20 on appeal. (See Pichler v. Simmons (2002) 2002 WL 31259892).

21 7. Both before, and since, joining the Edgar Law Firm, I have spent most of my legal
22 career focused in the area of complex litigation, and multi-plaintiff litigation, in various areas.

23 8. Most recently, within the last year, the Northern District of California has twice
24 certified my law firm as class counsel in two unrelated employment law class action cases. In
25 one case, ***Sims et al. v. Metropolitan Life Insurance Company***, Case No. 05-02980 TEH, my
26 firm was approved as the sole legal counsel for a class of over 300 persons in a \$6.25 million
27 dollar class settlement. The settlement was reached after two years of active litigation against
28

1 Morgan Lewis, a premier employment law defense firm. In the other recent case, *Wamboldt v.*
2 *Safety-Kleen Systems*, Case No. 07-00884 PJH, my firm was among the firms approved by the
3 Court to represent the class. In that case, the certification of the class was over the hard fought
4 opposition of the defendant, who was represented by Seyfarth Shaw, another well-known
5 employment law defense firm. I personally took a lead role in the litigation of both cases.

6 9. No one from my law firm has never been disciplined by the State Bar of
7 California for any matter whatsoever.

8 10. To date, our firm has spent many hours working on this case, including review of
9 hundreds of pages of documents produced by Dollar Tree, depositions of Plaintiffs and Dollar
10 Tree employees, legal research and preparation of legal briefing for the Court appointed
11 evaluator. Plaintiffs, Kassondra Baas and Kelly Lofquist, have consistently assisted us in the
12 preparation of this case, conducting record review, consulting with us as needed to explain
13 Dollar Tree company records, submitting themselves for deposition, and responding to written
14 discovery. Both have shown great respect for the import of this litigation and willingness to
15 stand up for the rights of all class members. Each has been completely cooperative in making
16 themselves available for deposition and discovery purposes, and for other litigation needs.

17
18 I declare under penalty of perjury under the laws of the state of California, and United States of
19 America that the above is true and correct and was executed in Santa Rosa on February 29, 2008.

20
21 
22 JEREMY R. FIETZ, ESQ.
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EXHIBIT A

CONFIDENTIAL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KASSONDRA BAAS and KELLY)
LOFQUIST, individually)
and on behalf of all)
others similarly situated,) No. C 07-03108 JSW (ENE)
Plaintiffs,)
vs.)
DOLLAR TREE STORES, INC.,)
Defendants.)
-----)

DEPOSITION OF RICHARD A. TELLSTROM

Held at the Offices of
Verbatim Reporting Service
141 Stony Circle, Santa Rosa, California
Tuesday, November 13, 2007, 9:45 a.m.

Verbatim ■

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1 APPEARANCES:

2 For the Plaintiffs: EDGAR LAW FIRM
3 BY: JEREMY R. FIETZ, ESQ.
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5 For the Defendants: KAUFF MCCLAIN & MCGUIRE LLP
6 BY: MAUREEN E. MCCLAIN, ESQ.
7 One Post Street, Suite 2600
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8 94104
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9 -and-

10 WILLIAMS MULLEN
11 BY: BETH HIRSCH BERMAN, ESQ.
12 999 Waterside Drive
Suite 1700
13 Norfolk, Virginia 23510
(757) 629-0604

14 Also Present: CARRIE LIN, ESQ.
15 WAYHAN TAN, VIDEOGRAPHER

16 Reported by: BRENDA L. MARSHALL, CSR
17 License No. 6939
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Verbatim ■

1 Q. And what does the store manager look at to
2 determine scheduling in light of the SPEH hours?

3 A. In Compass, it's got, actually, sales in
4 there now, it tells them how many hours is worked,
10:17:03 5 what the sales are. They also have a sheet that
6 they fill out on a clipboard that gives them a week
7 average sale, customer count, overs and shorts, bank
8 deposit, then they call it in to me at nighttime.

9 MS. MCCLAIN: Okay. May I have this marked
10:17:21 10 as next in order, please.

11 (Whereupon, the document referred to
12 was marked Defendants' Exhibit 2 for
13 identification by the Reporter, a
14 copy of which is attached hereto.)

10:17:49 15 BY MS. MCCLAIN:

16 Q. This is a document that Mr. Hansen produced
17 to us, Mr. Tellstrom. Is this the sheet that you're
18 talking about?

19 A. Yes.

10:17:57 20 Q. And how does the store manager use this
21 information on an ongoing basis; that is, if you
22 look at it on Monday, how does that impact the store
23 manager's planning for the rest of the week?

1 24 A. Well, he can look at his trends and see
18:12 25 what -- whether the sales are up or down over last

Verbatim ■

1 year and adjust accordingly through the week.

2 Q. When you say "adjust accordingly," adjust
3 what?

4 A. Hours.

10:18:21 5 Q. So, adjust the schedule?

6 A. The schedule. Correct.

7 Q. If the sales look like they're trending above
8 projection, how would that affect the scheduling if
9 you were a store manager?

10:18:36 10 A. He could add more hours, based on the SPEH.

11 Q. Conversely, if they were declining, how would
12 that affect him?

13 A. He -- he would decrease the hours.

14 Q. In your judgment, Mr. Tellstrom, and tell us
10:18:52 15 if you don't think you're able to form this
16 judgment, do the store managers in your district
17 have sufficient hours to run their stores properly?

18 A. Yes. With the right people and the right
19 performance on everybody, correct.

10:19:13 20 Q. Whose job is it to make sure that there are
21 the right people in the stores?

22 A. The store manager.

23 Q. Whose job is it to make sure that they are
24 all trained properly?

10:19:23 25 A. Store manager.

Verbatim ■

1 BY MS. MCCLAIN:

2 Q. How would you do it if you were a store
3 manager?

4 A. Store manager. Look and see what the --
10:35:35 5 you're not making sales, you've got to cut payroll
6 if you're not doing it. Your hours are based on
7 Compass. Our forecasted hours, you have a set
8 forecast that you should hit. If you're not hitting
9 that, you need to adjust it up or down.

10:35:49 10 Q. Is it correct, then, that you're describing a
11 process of constantly monitoring actual sales?

12 A. Sure. Store manager function.

13 Q. And you say, "Contact your D.M. with any
14 payroll issues. Remember, overtime is not
10:36:07 15 acceptable unless your D.M. authorizes it
16 beforehand."

17 Had you asked the store managers in your
18 district to notify you if overtime was needed?

19 A. Yes. They -- it's -- it was the D.M. before
10:36:21 20 me, and it just kept coming down. Same policy.

21 Q. Did you find that Mr. Hansen complied with
22 that?

23 A. For the most part, sure.

24 Q. When you were notified, did you authorize the
:36:33 25 overtime?

Verbatim ■

1 Q. What is Dollar Tree's policy with respect to
2 fixing punches in the Compass system? What's the
3 purpose of fixing punches?

4 A. Well, if they have to fix it, it's something
12:22:35 5 that, No. 1, either the assistant, or whoever,
6 didn't get to punch the time clock right. So they
7 mispunched. Whether the time clock being down, the
8 satellite being down, there's certain situations
9 that doesn't let them punch. So they have a time
12:22:54 10 clock worksheet that they're supposed to fill out,
11 what time they're punched, sign it, store manager or
12 the assistant, whoever corrects that punch, should
13 initial that they did it, and at the end of the
14 week, that should be put in a folder, recorded with
12:23:11 15 the scheduled work for that week and the time clock
16 edit sheet. Make sure they record and pay everybody
17 what hours they've worked.

18 MS. MCCLAIN: May I have this marked as next
19 in order, please.

12:23:44 20 (Whereupon, the document referred to
21 was marked Defendants' Exhibit 11 for
22 identification by the Reporter, a
23 copy of which is attached hereto.)

24 BY MS. MCCLAIN:

12:23:53 25 Q. This is an excerpt from the handbook. Is the

Verbatim ■

1 THE WITNESS: Correct. Correct.

2 BY MS. MCCLAIN:

3 Q. Any exceptions to that?

4 A. No.

12:26:37 5 Q. Is -- has the Compass system been explained
6 to you? Has someone trained you on it?

7 A. Yes. But they -- we keep on updating, and
8 we -- the store managers have done classes on how to
9 get to where they need it. And they have -- they've
12:27:00 10 got me as a person they can call, and also, Mike, if
11 they need any direction or any help.

12 Q. Were you --

13 A. Or even Brian Henry. I'm sorry.

14 Q. Were you a store manager when Compass was
12:27:13 15 introduced?

16 A. Yes, I was. It rolled out when I was a store
17 manager. I was one of the test pilot stores.

18 Q. Was that store 2162?

19 A. Yes, it was.

12:27:23 20 Q. Who rolled it out to you?

21 A. Well, the company rolled it out, and I had to
22 go to Sacramento and get trained by Carlos
23 Hernandez. Mike, me and Jason. Mike Cossolotto,
1 24 myself, and Jason all went over there on a Friday
12:27:43 25 afternoon and had a two-hour class on it. And then

Verbatim ■

1 we brought it back here. And, like I said, I was a
2 test pilot store. So I had to go through some rough
3 times as far as learning it myself.

4 MS. MCCLAIN: May I have this marked as next
12:28:48 5 in order, please.

6 (Whereupon, the document referred to
7 was marked Defendants' Exhibit 12 for
8 identification by the Reporter, a
9 copy of which is attached hereto.)

12:29:11 10 BY MS. MCCLAIN:

11 Q. Would you take a moment to review this
12 document, please.

13 Do you recognize this document,
14 Mr. Tellstrom?

12:30:00 15 A. Yes.

16 Q. What is it?

17 A. Time and attendance policies and procedures
18 for store manager and assistants.

19 Q. Is this policy available to store managers?

12:30:09 20 A. Yes. I believe so.

21 Q. And there's a reference on page 95 of this
22 policy that store management must monitor associates
23 to ensure that they record all time worked, no
24 off-the-clock work, and record lunches and breaks
130:33 25 fully and properly.

Verbatim ■

1 And is that a policy that has been
2 communicated to store managers in your district?

3 A. Yes. We've had -- we had a meeting over in
4 Sacramento this last year at -- on making sure the
12:30:49 5 store manager is giving lunches and breaks for their
6 assistants and giving them a half-hour uninterrupted
7 lunch.

8 Q. Was that a meeting that Mr. Hansen attended?

9 A. Yes.

12:30:59 10 Q. Did Mr. Cruz attend it; do you recall?

11 A. I don't recall. I think that might have been
12 after he left.

13 Q. If you go to the very end of page 95, there's
14 a statement, "The store manager is still responsible
12:31:30 15 for the review, verification, and approval of time
16 sheets no matter who enters (Store Manager or
17 Assistant Manager) or approves the time records."

18 Is that an accurate statement of Dollar Tree
19 policy?

12:31:43 20 A. Yes. And if the store manager is on vacation
21 and they needed to be submitted on Sundays, the D.M.
22 goes and submits it so the store gets their payroll.
23 Most assistants now know how to accept payroll and
24 finalize it if the store manager is --

12:32:11 25 Q. Is unavailable?

Verbatim ■

1 A. Is unavailable. Correct.

2 MS. MCCLAIN: May I have this marked as next
3 in order, please.

4 (Whereupon, the document referred to
5 was marked Defendants' Exhibit 13 for
6 identification by the Reporter, a
7 copy of which is attached hereto.)

8 BY MS. MCCLAIN:

9 Q. Do you recognize this document,
10 Mr. Tellstrom?

11 A. Yes.

12 Q. What is it?

13 A. Responsibilities for the management team as
14 far as what -- the time adjustments and overtime and
12:33:01 15 specific instructions for them not to fix anything
16 without any -- authorized from the associate as far
17 as change in punches, assistants not being able to
18 change their own punches. Any kind of a time clock
19 adjustment. Guideline.

12:33:36 20 Q. You were telling us earlier about the use of
21 the time clock worksheet, which is referenced under
22 time adjustments in the first list of bullet points,
23 and do you have knowledge on an ongoing basis that
24 your stores in your district are using time clock
34:01 25 worksheets? Do you know one way or the other?

Verbatim ■

1 it should have been the time clock worksheet.

2 Q. Under Store Manager's Responsibilities,
3 there's a reference to "Payroll must be approved
4 each week. It can be approved as early as close of
12:35:31 5 business on Saturday or as late as Monday by 9:30
6 AM, your local time."

7 Is that a rule that's applied throughout the
8 time that you've been a district manager?

9 A. Yes. I prefer for them to have it done on
2:35:46 10 Sundays. I don't throw a fit if they don't have it
11 done by Sundays, but it would be nice to be
12 consistent, and that way I can get my numbers
13 together on Sunday night. It's a routine that I
14 have.

12:35:57 15 Q. And how is the approval of payroll
16 communicated to you? How do you know that that's
17 happened?

18 A. I go into Compass; I've got access to all 12
19 stores. I review it on a daily basis, see where I'm
2:36:11 20 at for the district. But I can look at it Sunday
21 morning and see who hasn't done their payroll. I'll
22 call the store, find out what assistant is there or
23 what store manager is there, direct them to make
24 sure that they adjust anything that needs to be
36:24 25 adjusted and submit it.

Verbatim ■

1 Q. And when you say "adjust anything that needs
2 to be adjusted," what are you referencing?

3 A. Any punches -- when you go on that screen,
4 there's black -- or actually, it's gray, red and
12:36:39 5 blue. Anybody that has the red or the blue, that
6 means that there's either a punch that wasn't
7 correctly done, or if they were taking lunches or
8 breaks or anything, that they have to specifically
9 click on that and see what -- what direction they
12:36:55 10 need to go in fixing it.

11 And then, also, whatever assistants -- each
12 assistant has their own Compass password. When they
13 go in, it tells them when they have fixed punches
14 and who did it, what time, so you can find out who
12:37:20 15 did it and if they have a time clock or worksheet to
16 verify who did it. You got three assistants and you
17 got one person fixing all the adjustments, you can
18 tell it's not being trained.

19 Q. You can tell that the other two are not being
12:37:33 20 trained; is that right?

21 A. (No audible response.)

22 Q. Do you have any personal knowledge that at
23 Mr. Hansen's store, once he became store manager,
24 assistants were using each other's numbers?

12:37:45 25 A. No idea. No.

Verbatim ■

1 A. No.

2 Q. What did your review consist of?

3 A. Just looking to see hours for each store
4 worked, what was scheduled and what was actually

12:42:30 5 worked and then to make sure that everybody's
6 punches were -- they weren't in the red or the blue
7 saying they had violations or warnings.

8 Q. And did I understand you correctly to say
9 that the red or the blue would be missed punches,
12:42:43 10 essentially?

11 A. Correct.

12 Q. Anything else?

13 A. No.

14 Q. Do you have --

12:43:16 15 THE WITNESS: Can we take a quick break?

16 MS. MCCLAIN: Sure. Absolutely.

17 THE VIDEOGRAPHER: We're going off the
18 record. The time is 12:44 P.M.

19 (Whereupon, a lunch recess was taken.)

13:34:01 20 THE VIDEOGRAPHER: We are going back on the
21 record. The time is 1:35 P.M.

22 BY MS. MCCLAIN:

23 Q. Mr. Tellstrom, we talked this morning about
24 strengths and weaknesses of certain of the store
13:42:21 25 managers in your district. Do you recall that

Verbatim ■

1 eliminate overtime from an employee's pay?

2 A. No.

3 Q. Have you ever directed any store manager to
4 reduce the time worked by making a punch change and
13:42:40 5 edit in the punch records?

6 A. No.

7 Q. Is it correct that you've not done that for
8 any reason? You've never done it, period?

9 A. No.

13:42:53 10 MR. FIETZ: Object. Leading?

11 BY MS. MCCLAIN:

12 Q. Is that right?

13 A. Yeah. No.

14 Q. No what?

13:42:57 15 A. No, I haven't.

16 Q. Have you had any knowledge that -- let me
17 rephrase the question.

18 Aside from information you may have gotten in
19 the course of this lawsuit, so I want you to set
13:43:33 20 aside any conversations that you and I have had or
21 that you've heard relating to this lawsuit, I'm
22 asking you about a time period before you knew about
23 this issue in conjunction with a lawsuit, have you
24 ever -- did you ever hear, when Mr. Hansen was a
13:43:46 25 store manager -- let's start at 1868 -- did you ever

Verbatim ■

1 is to know company policies and procedures.

2 Q. So the answer is no, you did not?

3 A. As far as --

4 Q. Instructing in those same e-mails that the
15:08:41 5 store managers were to direct themselves to company
6 policies regarding the manner in which they should
7 make their payroll, you did not do that; correct?

8 A. No.

9 Q. You are aware that time shaving occurred?

15:08:58 10 A. Now I am. Correct.

11 Q. Are you aware of to -- how many employees in
12 your district were victims of time shaving?

13 A. I have no idea.

14 Q. Do you know whether it's more than 10?

15:09:13 15 A. No idea. Have 12 stores, each store has
16 probably about 12 to 15 people.

17 Q. So it's possible that could have happened to
18 a hundred people in your district?

19 MS. MCCLAIN: Objection. Calls for
15:09:26 20 speculation.

21 THE WITNESS: Not sure.

22 BY MR. FIETZ:

23 Q. You have no idea, except that it has
24 happened, but you don't know to how many people?

09:31 25 A. Correct.

Verbatim ■

1 Q. And for how long have you known that time
2 shaving occurred?

3 A. Since this has came up.

4 Q. Since the filing of the lawsuit?

15:09:47 5 A. Yes.

6 Q. What have you done, then, to -- let me back
7 up.

8 You indicated that you were shocked when you
9 learned that Jerry Burger's store had some time
15:10:06 10 shaving or time manipulation or failure to pay for
11 time worked when you first found that out a couple
12 of months ago; correct?

13 A. Correct.

14 Q. Were you similarly shocked when you learned
15:10:18 15 about the filing of this lawsuit about other time
16 shaving within your district?

17 A. Sure.

18 Q. How -- why is it that if you learned about
19 time shaving in your district many, many months ago,
15:10:32 20 you haven't gotten to the bottom of how many
21 employees were subject to this time shaving so you
22 could make sure they got paid?

23 A. I've left that in the store managers'
24 control, to research it, find out, get with Pat
10:44 25 Doss, and make him -- have him get paid.

Verbatim ■

1 Q. You have directed the store managers to
2 research each store's payroll, going back for some
3 period of time, to identify punch changes resulting
4 in the subtraction of work time?

15:11:01 5 A. No.

6 Q. Can you explain to me then what you just
7 meant by you left it to store managers?

8 A. If associates came up to them and said they
9 didn't get paid, to go back and look and see the
15:11:12 10 time frame that it happened.

11 Q. Okay. So the extent to which you followed up
12 to determine what action could be taken to determine
13 how many employees were the potential victims of
14 time shaving is to tell store managers to
15:11:31 15 investigate if an employee raises an issue?

16 A. Correct.

17 Q. Did you indicate that to your store managers
18 in writing in any way?

19 A. No.

15:11:41 20 Q. So several months ago, you became aware of a
21 lawsuit alleging that time shaving occurred, and
22 you, in fact, confirmed the time shaving had
23 occurred; correct?

24 A. At that time, yes.

11:57 25 Q. And as the district manager, the only action

Verbatim ■

1 you took to investigate the extent to which the time
2 shaving occurred so that people could get paid was
3 to tell your store managers orally that if someone
4 complains, investigate it; correct?

15:12:12 5 A. No.

6 Q. Okay. What else did you do?

7 A. They need -- they know what goes on in their
8 building, they need to control it. I'm not at their
9 store seven days a week to see what's going on in
15:12:25 10 their building. If it was brought to their

11 attention, they need to address it.

12 Q. But time shaving was brought to your
13 attention, wasn't it?

14 A. Just in the one store, yes.

15:12:36 15 Q. You understood that the allegation was that
16 time shaving had occurred throughout the district,
17 at the very least; correct?

18 A. Store specific only.

19 Q. You were not made aware that the allegation
15:12:51 20 was that time shaving occurred at more than one
21 store?

22 A. No. No.

23 Q. And with regard to the store you're referring
24 to, store 1868, the Rohnert Park store?

13:04 25 A. I would say yes.

Verbatim ■

1 foundation.

2 You understand that Ms. McClain is your
3 attorney?

4 A. Correct.

15:15:30 5 Q. And you understand that Ms. Berman is your
6 attorney?

7 A. Correct.

8 MS. MCCLAIN: That's not correct, and I
9 have --

15:15:36 10 MR. FIETZ: I'm asking what his understanding
11 is.

12 MS. MCCLAIN: He -- this witness has been
13 told over and over again we represent Dollar Tree,
14 and you are misstating communications I've had with
15:15:46 15 you. I have not --

16 MR. FIETZ: I'm misstating no communication.

17 MS. MCCLAIN: Yes, you are.

18 MR. FIETZ: I asked this witness what his
19 understanding was regarding whether or not you
15:15:52 20 represent him.

21 MS. MCCLAIN: I don't think you quite asked
22 it that way. And I'll make it very clear who we
23 represent. We represent the company, and the
24 attorney-client privilege applies to Mr. Tellstrom
16:07 25 because he's a manager of the company.

Verbatim ■

1 We do not represent you individually, Rick,
2 and I don't want there to be any miscommunication
3 about that.

4 BY MR. FIETZ:

15:16:24 5 Q. Have you ever seen the complaint in the
6 Baas/Lofquist case?

7 A. Complaint, no.

8 Q. Yes. The complaint.

9 A. No.

15:16:32 10 Q. No?

11 A. No.

12 Q. As a district manager, you're interested in
13 finding out whether there was any time shaving in
14 your district so that it can be corrected; is that
15:16:50 15 fair to say?

16 A. Sure.

17 Q. When you learned that Miguel Cruz had
18 testified that he shaved time, what action did you
19 take to investigate to whom he shaved time from so
15:17:04 20 that they could be paid?

21 A. I did none.

22 Q. Why not?

23 A. Wasn't instructed.

24 Q. Isn't it your job as a district --

17:18 25 A. Didn't know.

Verbatim ■

1 Q. Why do you need to be instructed to make sure
2 people get paid for all time worked when we've just
3 talked about all the Dollar Tree policies that say
4 everyone should get paid for every minute that they
15:17:28 5 worked?

6 A. Because if the store manager is doing their
7 job, they would know that they would get paid right.
8 That's their job, to make sure their store is run
9 correctly, get paid right, follow policies and
15:17:38 10 procedures.

11 Q. When you learned that a store manager,
12 Mr. Cruz, had testified that he shaved time,
13 depriving employees in your district of pay for the
14 time they worked, you took no action. Why not?

15:17:54 15 A. Thought maybe it was an isolated incident.

16 Q. So --

17 A. Thought it just happened under Miguel Cruz
18 because that's what he did.

19 Q. Well, let's just assume, then, that you did
15:18:09 20 think that it was an isolated incident. Aren't the
21 people that that happened to entitled to be paid for
22 their time worked?

23 A. Absolutely.

24 MS. MCCLAIN: Objection. Calls for
18:17 25 speculation. Lack of foundation.

Verbatim ■

1 BY MR. FIETZ:

2 Q. Why didn't you do anything to investigate so
3 that those people that he shaved time from could get
4 paid?

15:18:24 5 MS. MCCLAIN: Objection. Lack of foundation
6 that there's been any time shaving.

7 THE WITNESS: I'm not sure.

8 BY MR. FIETZ:

9 Q. Raley's was the job you had immediately prior
15:18:55 10 to Dollar Tree; correct?

11 A. Yes.

12 Q. What was the reason for that employment
13 terminating?

14 A. I left.

15:19:00 15 MS. MCCLAIN: Objection. Invasion of
16 privacy.

17 And if a question is asked of you that you
18 think is personal about your employment background,
19 Mr. Tellstrom, let me know that, and we'll talk
15:19:14 20 about whether it's too invasive of your individual
21 privacy.

22 And if you want to answer this, you can, but
23 if there's any reason why you prefer not to talk
24 about your past employment, we should step out and
19:28 25 talk about it.

Verbatim ■

1 training position already, but he left for T.J.Maxx
2 for more money. He actually had said he enjoyed
3 working for Dollar Tree, so did Marty.

4 Q. Do you know which T.J.Maxx Mr. Burger works
16:04:14 5 for?

6 A. Yeah. Santa Rosa. On Cleveland Avenue.

7 Q. In any event, after Mr. Burger left, you
8 discovered that he had violated Dollar Tree policy
9 concerning payroll; correct?

16:04:30 10 A. Yes.

11 Q. With regard to the manner in which Mr. Burger
12 violated Dollar Tree policy regarding payroll, what
13 can you tell us about how it was actually done? Do
14 you know? Did he go in to change a punch that had
16:04:57 15 already been made? Did he simply not make punches
16 or not record what had been written on a hand sheet?

17 A. What -- what John showed me was that, after
18 researching, that he actually went in and ignored
19 the second half of the shift, and it said ignored,
16:05:14 20 and it clicked on it, and it said who ignored it.

21 Q. And as I understand it, ignore a punch simply
22 means that it -- it's like it was never made?

23 A. Correct.

24 Q. So these are punches that employees would
05:29 25 make as far as they would have a start shift punch,

Verbatim ■

1 some break punches, a meal punch, and an end shift
2 punch, or maybe some more break punches, and
3 Mr. Burger had gone in to change the punches to
4 simply ignore the last half of the day?

16:05:46 5 MS. MCCLAIN: Objection. Lack of foundation.

6 THE WITNESS: John showed me. I didn't
7 really specifically look at it. He just showed me
8 it said ignored on it and said the person and how
9 many hours were deleted. That's all I -- that's all
16:05:58 10 I noticed. I had him get with Pat Doss and -- and
11 try to figure out what was happening.

12 BY MR. FIETZ:

13 Q. So you didn't study it, but you know enough
14 to know that as a result of Mr. Burger going into
16:06:10 15 the payroll system and utilizing the ignore
16 function, the payroll system acted as if work had
17 not been performed by the employee?

18 A. Correct.

19 Q. Has there been any investigation of the
16:06:46 20 payroll throughout 2262, or has there only been
21 investigation as to those employees that notified
22 you or management that they hadn't been paid
23 appropriately?

24 MS. MCCLAIN: Objection. Lack of foundation.

16:07:01 25 BY MR. FIETZ:

Verbatim ■

1 Q. So she indicated to you that she was going to
2 further research the punches as to those employees
3 who had raised an issue with you?

4 A. Yes.

16:08:21 5 Q. So, again, my question is, do you have any
6 understanding, either because someone told you they
7 were going to or because you directed someone to,
8 investigate employee punches in store 2262 as to any
9 employees other than those who specifically raised
16:08:39 10 the issue with you?

11 A. No.

12 Q. Why not?

13 MS. MCCLAIN: Objection. Lack of foundation.
14 Calls for speculation.

16:08:48 15 BY MR. FIETZ:

16 Q. Why didn't you direct a further investigation
17 to ensure that other employees of 2262 were not
18 subject to the same violations that Mr. Burger
19 subjected the people to that came to you?

16:09:01 20 A. I was thinking it should have been maybe
21 isolated with just the time frame that he was there.

22 Q. How many employees were employed by 2260 --
23 in store 2262 at the time that Mr. Burger was there?

24 A. I don't -- don't have the numbers for it.

16:09:23 25 Q. More than 20?

Verbatim ■

1 A. Possibly.

2 Q. Definitely more than 15?

3 A. Close to 15.

4 Q. And how many people raised an issue with you
16:09:35 5 concerning not being paid appropriately while
6 Mr. Burger was the store manager?

7 A. Three.

8 Q. So you had reports of three people out of a
9 store of probably 15 employees. Why did you assume
16:09:53 10 that Mr. Burger's time shaving was not done to any
11 other employees other than the ones -- than the ones
12 that specifically came to you?

13 A. The rest are part-timers.

14 Q. And it's your understanding that the time
16:10:06 15 shaving only occurred to full-time employees?

16 A. Possibly.

17 Q. What do you -- what did you base that
18 assumption on?

19 A. Because it was the night crew that was
16:10:14 20 working anywhere from four-and-a-half to
21 seven-and-a-half-hour shifts.

22 Q. Was it your understanding that the time
23 shaving that Mr. Burger did was only as to the
24 longer shifts? In other words, not the
16:10:28 25 four-and-a-half-hour shifts?

Verbatim ■

1 A. That's all we isolated was the longer shifts.

2 Q. Did you look for more?

3 A. No.

4 Q. How long were you a store manager?

16:11:03 5 A. With Dollar Tree?

6 Q. Yes.

7 A. May 31st of '05 to probably end of October of
8 '06.

9 Q. Approximately a year and a half?

16:11:26 10 A. Correct.

11 Q. And is Roseland the only store you were a
12 store manager at?

13 A. Healdsburg.

14 Q. Healdsburg. Sorry. Healdsburg the only
16:11:36 15 store?

16 A. Both. Healdsburg and Roseland.

17 Q. Can you give me the time frame on that,
18 which -- which --

19 A. Healdsburg first.

16:11:43 20 Q. So May 31st, '05 --

21 A. To the end of August of that same year.

22 Q. And then from August of '05 to approximately
23 October of '06 --

24 A. Correct.

11:57 25 Q. -- you were at Roseland?

Verbatim ■

1 A. Yes.

2 Q. During any of your time as a store manager,
3 did you make additions to punches that were not made
4 by employees?

16:12:15 5 A. Only if they stated what needs to be punched
6 in and out.

7 Q. So when there was a missing punch, you added
8 a punch?

9 A. Possibly I'm talking to that associate or
16:12:30 10 finding out from the assistant or looking -- looking
11 on somebody that clocked out at the same time that
12 store manager assistant might have left.

13 Q. So when you made punch changes for missing
14 punches, you did so when you had satisfied yourself
16:12:49 15 that you had some reasonable basis for the punch
16 entry you were making; is that fair?

17 A. If it was correct, yes.

18 Q. What do you mean, "if it was correct"? Maybe
19 you didn't understand my question. Let me reask it.
16:13:05 20 We're probably talking about the same thing, but
21 let's clear it up.

22 When you supplied a missing punch to an
23 employee's payroll record, you did so only when you
24 had satisfied yourself as to the reasonableness of
16:13:23 25 the punch addition you were making?

Verbatim ■

1 A. No. It was what the employee's needs were.
2 If they worked what they worked, that's when I put
3 it in. It wasn't up to me where I wanted to put it.

4 Q. But you satisfied yourself prior to making --
16:13:38 5 you didn't just guess --

6 A. Oh, no.

7 Q. -- when it came to supplying a missing punch?

8 A. Oh, no. No. Right. No. No. Absolutely
9 not.

16:13:43 10 Q. Okay. So you had some reasonable basis in
11 your mind for making the punch changes for missing
12 punches?

13 A. Yes.

14 Q. And sometimes it's because an employee would
16:13:53 15 tell you?

16 A. Leave notes. They'd sign the time clock
17 worksheet.

18 Q. How else would you know?

19 A. Verbal. Another associate.

16:14:04 20 Q. You could say, you know, "Hey, Bob, you know,
21 did you happen to see when Mary left?"

22 A. Or you could actually go back on cameras and
23 see what time they left the building.

24 Q. Did you do that?

14:15 25 A. Couple times. Sure.

Verbatim ■

1 Q. During the portions of your testimony today
2 in which you've discussed making punches to employee
3 time within the Compass system, the -- my
4 understanding of your testimony is that you've only
17:06:52 5 referred to punching missing punches; is that
6 correct?

7 A. As a -- as a D.M.? Store manager?

8 Q. As a -- when you were a store manager. When
9 you supplied punches, you did so to missing punches
17:07:06 10 only?

11 A. I don't recall if it was missing punches or
12 clocking out.

13 Q. What I mean by missing punches is -- so we're
14 on the same page -- is that an employee comes in and
17:07:25 15 clocks in, clocks in a break, clocks out on a break,
16 clocks in a lunch, then goes back to work and never
17 clocks out of lunch. In other words, never
18 indicates on their punches that their lunch ended.

19 You, as a store manager, would need to add a
17:07:43 20 punch for the end of lunch in order for that payroll
21 to be processed; correct?

22 A. Or another assistant manager could have done
23 it. Correct.

24 Q. Someone would need to add a missing punch, or
17:07:55 25 it couldn't be submitted?

Verbatim ■

1 A. Correct.

2 Q. In fact, it was color-coded to indicate
3 there's a missing punch here, action must be taken?

4 A. Correct.

17:08:02 5 Q. Other than supplying missing punches, were
6 there ever any other occasions that you would supply
7 punches to the Compass system?

8 A. Not that I recall. Just, you know, normal
9 punch in and punch out.

17:08:12 10 Q. Missing punches?

11 A. Correct.

12 Q. So there was no occasion that you had as a
13 store manager in which you changed an employee punch
14 from something the employee had input themselves to
17:08:24 15 something different?

16 A. Not that I can recall.

17 Q. Do you have any understanding one way or the
18 other whether any of the assistant managers working
19 under you, while you were a store manager, made any
17:08:48 20 changes at all to employee punches that had been
21 input by the employee?

22 A. Not to my knowledge.

23 Q. Would you approve of that?

24 A. Of course not.

08:58 25 Q. Why not?

Verbatim ■

1 A. Because it's not right. They need to get
2 paid for what they worked.

3 Q. Do you have any understanding as to the
4 reason that Dollar Tree's cashiers are typically
17:09:23 5 scheduled below five hours?

6 A. Why they are?

7 Q. Yes.

8 A. Just four-and-a-half-hour shifts is what the
9 company guidelines are.

17:09:33 10 Q. Do you understand that when an employee works
11 over five hours, they're entitled to a meal period?

12 A. Of course.

13 Q. So is it your understanding that one of the
14 legitimate business purposes of scheduling an
17:09:49 15 employee to work four and a half hours is to avoid
16 having to provide them with a meal period?

17 MS. MCCLAIN: Objection. Lack of foundation.

18 THE WITNESS: Never thought of it that way.

19 In all the years of retail, I've never thought of it
17:10:09 20 that way.

21 BY MR. FIETZ:

22 Q. Who's Tonya Burger?

23 A. That's Jerry. Store manager.

24 Q. That's --

10:14 25 A. Jerry Burger.

Verbatim ■

1 Q. Tanya --

2 A. That was the store manager at 2262.

3 Q. And Tanya was his first name, and he went by
4 Jerry or --

17:10:23 5 A. Yeah. Well, his -- well, Tanya is his name,
6 but he went by Jerry. Correct.

7 Q. Who is Linda Bailey?

8 A. Jerry's assistant at 2262.

9 Q. No longer Jerry's assistant; right?

17:10:56 10 A. She's no longer with us, either.

11 Q. Why is that? If you know.

12 A. When -- when Jerry left, she left. Jerry
13 brought her aboard.

14 Q. Who is Janie Wu?

17:11:11 15 A. Assistant at 2162. Or I'm sorry. 2168.
16 Felice's store.

17 Q. Raymond Solis?

18 A. He's the assistant manager at 1845.

19 Q. How about Jo Lynch?

17:11:39 20 A. No longer with us. She was the assistant at
21 2262.

22 Q. And do you have any understanding as to why
23 she left the employment of Dollar Tree?

24 A. She was let go due to post void fraud.

12:03 25 Q. She was found to have been violating Dollar

Verbatim ■

1 A. What was it?

2 MS. MCCLAIN: Don't guess.

3 THE WITNESS: I don't recall. Yeah.

4 BY MR. FIETZ:

17:13:55 5 Q. Jessica Lopez?

6 A. She was an assistant at Willits. Transferred
7 to Sacramento.

8 Q. Still working for Dollar Tree; do you know?

9 A. I'm not sure.

17:14:12 10 Q. Jorge Trejo?

11 A. Still with us.

12 Q. Where does he work?

13 A. 2162.

14 MS. MCCLAIN: May I have the spelling on that
17:14:25 15 name?

16 MR. FIETZ: Jorge, J-o-r-g-e, Trejo,
17 T-r-e-j-o.

18 Q. He's an assistant manager at 2162?

19 A. Yes.

17:14:36 20 Q. As you sit here today, can you think of any
21 good reason why there would be a management person
22 going into the Compass system, changing a punch that
23 had been made by the employee, which would result in
24 a subtraction of employee time? Can you think of
15:13 25 any good reason for that to occur?

Verbatim ■

1 MS. MCCLAIN: Objection. Calls for
2 speculation.

3 THE WITNESS: No.

4 MS. MCCLAIN: Lack of foundation.

5 BY MR. FIETZ:

6 Q. The answer is no?

7 A. No.

8 Q. If you learned that different managers of
9 different stores had engaged in time shaving, do you
10 have any idea how it is that they would all come up
11 with that same idea?

12 MS. MCCLAIN: Objection.

13 THE WITNESS: No.

14 MS. MCCLAIN: Compound. Rick, hang on.
15 Compound. Lack of foundation. Calls for
16 speculation. That's an impossible question.

17 BY MR. FIETZ:

18 Q. Are you aware of any conspiracy between store
19 managers, discussions between store managers, along
20 the lines of, "Hey, let's shave some employee time"?

21 A. Am I aware of it, no. If I was, I wouldn't
22 allow it.

23 Q. When was the first time that you met
24 Ms. McClain?

16:41 25 A. Maybe a month ago, if that.

Verbatim ■

1 time.

2 BY MS. MCCLAIN:

3 Q. Right. You were thinking about it in terms
4 of changing time that had actually been worked;
17:34:41 5 correct?

6 A. Sure. Yes.

7 MR. FIETZ: Objection. Leading. Misstates
8 testimony.

9 BY MS. MCCLAIN:

17:34:45 10 Q. However, are there situations where an
11 employee punches in late, for example, and says to
12 the store manager, "I punched in late, but I really
13 started working a half an hour ago"?

14 A. Yes.

17:34:59 15 Q. Has that ever happened to you?

16 A. Yes.

17 Q. In that situation, is it proper and necessary
18 for the store manager to correct the punch to
19 reflect the actual time worked?

17:35:09 20 A. Absolutely.

21 Q. Is it correct, then, that it's your rule of
22 thumb that punches have to reflect the actual time
23 worked?

24 A. Yes.

35:19 25 Q. If changes have to be made to make that

Verbatim ■

1 reflection, those changes are proper; is that right?

2 A. Yes.

3 MR. FIETZ: Objection. Leading.

4 BY MS. MCCLAIN:

17:35:27 5 Q. And are there circumstances when such changes
6 would be proper, in your experience?

7 A. No.

8 Q. If the change is to actually reflect time
9 worked?

17:35:41 10 A. Oh, yes. Yes. Most definitely, they should
11 be corrected.

12 Q. Are we talking about the same thing, that is,
13 are there times when the manager edits time to make
14 sure that all time is paid for, as opposed to just
17:35:58 15 supplying the same functions?

16 A. Yes. Yes.

17 Q. Can you give me an example of that?

18 A. The computer goes down and time clock
19 worksheet is filled out. Like I said, sometimes
17:36:12 20 they leave it on 3 by 5 cards, forgot to punch, this
21 is the time, leave it right for the store manager,
22 they -- they edit it. Something that's been
23 associate-written, instructed to.

24 Q. What about a situation where somebody just
17:36:28 25 makes a mistake in a punch? Has that ever happened?

Verbatim ■

1 I punched in at 10:00, but I really started working
2 at 9:30?

3 A. Yes.

4 Q. What is the store manager's obligation in
17:36:40 5 that situation?

6 A. Pay that employee.

7 Q. And to change the punch to reflect it?

8 A. Yes.

9 Q. What about the reverse? What about a
17:36:48 10 situation where an employee says, "I punched out at
11 11:00, but I really stopped working at 10:30. I
12 made a mistake and delayed punching out"? Has that
13 ever happened?

14 A. They said they stopped working at 10:30 and
17:37:05 15 punched out at 11:00? Not to my knowledge.

16 Q. If you observed that situation, and -- would
17 you make such a change?

18 A. To correct the punch to reflect the time
19 worked, yes.

17:37:22 20 MS. MCCLAIN: I have no further questions.
21 Thank you.

22 MR. FIETZ: I have a quick follow-up. We can
23 do this all night, unfortunately. But, no. I'm
24 kidding. I only have a couple more questions.

25 ///

Verbatim ■

FURTHER EXAMINATION

BY MR. FIETZ:

Q. You indicated, in answering one of the last couple of questions, that you're not aware of any time when someone punched out and punched out later than they actually stopped working. In fact, in order to make a punch, you actually have to be there in person and typing at the computer; correct?

A. Yes.

Q. In other words, an employee --

MS. MCCLAIN: Excuse me, Jeremy. Just a second.

Can I have the question read back. The initial question.

(The record was read.)

BY MR. FIETZ:

Q. And the answer was correct?

MS. MCCLAIN: Objection. I think you misstated the record, Jeremy. We need to look at the record. I don't think that was the question and answer. So, objection. Misstates the record.

BY MR. FIETZ:

Q. Well, let's clear up the record. It's my understanding that when Ms. McClain asked you if you were aware of any circumstance in which someone had

Verbatim ■

1 clocked out at 10:00 but actually said, "Hey, you
2 know what, I stopped working at 9:30," you're not
3 aware of such a circumstance occurring?

4 A. No.

17:39:07 5 Q. That's correct?

6 A. Yeah.

7 Q. Yes?

8 A. Yes.

9 Q. And, again, as I indicated earlier, and we'll
17:39:19 10 clear up the record here, in order to make a time
11 punch in Compass or the prior system, the employee
12 has to be there in person; correct?

13 A. Correct.

14 Q. So an employee can't stop working at the end
17:39:29 15 of the day, go home, and then make a punch later on;
16 right?

17 MS. MCCLAIN: Objection. Lack of foundation.

18 THE WITNESS: No. They can. Without -- it
19 would show worked till that period they punched back
17:39:42 20 in.

21 BY MR. FIETZ:

22 Q. I mean, they would have to be in the store.
23 So in order for a punch at the end of the day to
24 reflect a time later than they stopped working,
17:39:57 25 they'd have to stop working and then come back to

Verbatim ■

1 the store at some later time to do a punch?

2 MS. MCCLAIN: Objection. Lack of foundation.

3 THE WITNESS: If I understand the question
4 right, if somebody doesn't punch the time clock and
17:40:10 5 they go home, they could come back the next day and
6 it still would be accumulating their time.

7 BY MR. FIETZ:

8 Q. Okay. I see.

9 A. Is that the question you were asking?

17:40:19 10 Q. Yeah.

11 A. Okay.

12 Q. So, in other words, they can't -- they can't
13 punch out from home?

14 A. No.

17:40:23 15 Q. And, similarly, at the beginning of the day,
16 if a start shift punch indicates that someone
17 started their shift at 9:00 A.M., while it is
18 possible that they could have been there earlier
19 than that but punched in late -- first of all, we
17:40:41 20 agree that's possible; right?

21 A. Yes.

22 Q. And it's perfectly reasonable for a manager
23 to add the extra half hour if they were working a
24 half hour before they punched in; correct?

17:40:51 25 A. Yes.

Verbatim ■

1 Q. But the reverse is not true, is it? Because
2 if you punched in at 9:00, obviously, you were there
3 at the store, and so it's not possible that you
4 didn't come in until 9:30 if your punch indicates
17:41:07 5 that you were there at 9:00; is that fair?

6 MS. MCCLAIN: Objection. Lack of foundation.
7 Calls for speculation.

8 THE WITNESS: I think so. Sure.

9 MR. FIETZ: I don't have anything further.
10 Thank you.

11 THE WITNESS: Unless somebody else had their
12 number that were punching them in. That's happened.
13 BY MR. FIETZ:

14 Q. It's your understanding that that's a rarity?

17:41:23 15 A. Yes.

16 MR. FIETZ: Thank you. Nothing further.

17 THE VIDEOGRAPHER: Okay. This concludes
18 today's proceeding in the deposition of Richard
19 Tellstrom. The number disks used is five. We are
17:41:35 20 now going off the record. The time is 5:43.

21 THE REPORTER: Mr. Fietz, do you need a copy
22 of the transcript?

23 MR. FIETZ: Of course. Please.

24 (Whereupon, the deposition proceedings
25 were concluded at 5:42 P.M.)

Verbatim ■

1 STATE OF CALIFORNIA)
2 County of Sonoma .)
3

4 I, BRENDA L. MARSHALL, holding CSR License
5 No. 6939, a Certified Shorthand Reporter, licensed
6 by the State of California, hereby certify that,
7 pursuant to Notice to take the foregoing deposition,
8 said witness was by me duly sworn to tell the truth,
9 the whole truth and nothing but the truth in the
10 within-entitled cause; that the testimony of the
11 said witness was recorded by me by stenotype, and
12 that said deposition was, under my direction
13 thereafter, reduced to computer transcript and, when
14 completed, was available to said witness for
15 signature before any Notary Public.

16 I further certify that I am not of counsel or
17 attorney for either of the parties to said
18 deposition, nor in any way interested in the outcome
19 of the cause named in the caption.

20 IN WITNESS WHEREOF, I have hereunto set my
21 hand this 27th day of November, 2007.
22

23 

24 BRENDA L. MARSHALL
25 Certified Shorthand Reporter
California License 6939

Verbatim ■

EXHIBIT B

- Associate can **not** clock in for another associate.

Time Adjustments

- Changes to an associate's time record may occur only if there is a discrepancy between the actual time worked and what company records indicate.
- Adjustments to any time clock records may not be made without proper verification, including notifying the associate.
- Changes to the "Time Clock Worksheet" must be noted on the worksheet and the associate initial the change.
- Any associate who enters time for another associate, changes their own time or falsely records time worked will be subject to disciplinary action up to and including termination.

Overtime

- All non exempt associates must be paid overtime for working any amount of time over 40 hours.
- If a state has a more restrictive policy the state policy will be followed.
- Overtime will be paid in the regular payroll cycle for the week in which it occurred.
- Non exempt associates may not be compensated in any other way such as compensatory time.
- Associates are not permitted to work off the clock.
- If an associate was not authorized to work overtime hours, they must be paid for all time worked, but will be counseled per company guidelines and disciplined if appropriate.

Payroll Responsibilities

Management Responsibilities

- Must communicate "Time Keeping" policy to all associates.
- Must enter associates into Lawson HR system prior to the day they begin work.
- Verify and resolve time discrepancies with associates prior to making adjustments and approving time record.
- Daily review and correct any time punch errors.
- Prior to the designated cut off time, all punch errors must be corrected, PTO approved, and approved time off entered.
- Failure to correct and approve payroll by the cut-off deadline will result in payroll not being processed for the store and the appropriate disciplinary action will be taken.

Store Manager's Responsibilities

- Assistant Managers can not edit or approve their own time.
- Store Manager is the only store management associate who can approve payroll.
- Payroll must be approved each week. It can be approved as early as close of business on Saturday or as late as Monday by 9:30 AM, your local time.
- A Report will be sent to the District Manager, Regional Director and Regional Staff for those stores who have not approved payroll.
- If Manager is on vacation or not available their DM, Regional HR or Regional Director must approve payroll.
- Store Manager must delegate payroll approval to their DM. If store changes district, delegation must be changed to the new District Manager.

Associates Responsibilities

- Must accurately record all time worked.
- Obtain prior approval for clocking in before or after their scheduled shift.
- Clock in and out for all breaks and rest periods.
- Clock in and out on the designated time clock.
- Never clock in and out other associates.
- Report to management in a timely manner any discrepancies in their paycheck.
- Request Paid Time Off (PTO) in advance or sick time as it occurs.
- **Do Not** work before punching in or after punching out.
- **Do Not** work outside your scheduled time before getting approval.

EXHIBIT C

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MIGUEL A. CRUZ, and JOHN D.)
HANSEN, individually, and on)
behalf of all others similarly)
situated,)

Plaintiffs,)

vs.)

DOLLAR TREE STORES, INC.,)

Defendant.)
_____)

COPY

Case No: C07-02050 SC

DEPOSITION OF JOHN D. HANSEN
VOLUME II

DATE: Thursday, November 1, 2007

TIME: 9:32 a.m.

LOCATION: Kauff, McClain & McGuire
One Post Street, 26th Floor
San Francisco, California 94104

PREFERRED REPORTERS
Certified Shorthand Reporters
201 E. Watmaugh Road
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Reported By: Linda Vaccarezza, RPR, CSR #10201

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24
25 VIDEOGRAPHER: Gene Frye

1	A	Yeah. Let me think of what I had to do	09:42:49a
2		last week. I was so tired, I can't even	09:42:54a
3		remember, because that overnight really threw my	09:43:11a
4		-- because I had to open Sunday, go home, get an	09:43:15a
5		hour's sleep, go to Lakeport, get an hour's	09:43:19a
6		sleep. Close Monday night, open Tuesday	09:43:25a
7		morning. And those are the days that I do most	09:43:29a
8		of my work that I'm supposed to be doing in the	09:43:36a
9		office.	09:43:38a
10		So I know right now I'm doing a lot of	09:43:39a
11		the work, looking for the hours that are missing	09:43:45a
12		off these people's checks from -- before I got	09:43:50a
13		there. So that's a different circumstance or	09:43:53a
14		situation that I'm trying to take care of.	09:43:59a
15		But other than that -- so I can't	09:44:02a
16		honestly recall.	09:44:05a
17	Q	Looking at a calendar for October of	09:44:08a
18		2007, is it correct that the Sunday-Monday we are	09:44:20a
19		talking about is October 21st and 22?	09:44:23a
20	A	Yes. Yes. Yeah. It looks right. Days	09:44:28a
21		seem to be running together for me right now.	09:44:47a
22		Sorry.	09:44:49a
23	Q	Your testimony was, then, that last	09:44:49a
24		week, and even extending to the present time, you	09:44:55a
25		have been spending a good deal of your time	09:44:57a

1 reviewing payroll issues; is that right? 09:45:00a

2 A Yeah. There are -- it's kind of an 09:45:04a

3 extraordinary issue of -- of just these people -- 09:45:07a

4 looks like hours were cut from them. And so... 09:45:12a

5 Q This is a situation you told me about 09:45:14a

6 involving your examination of payroll reports 09:45:16a

7 that Mr. Berger was responsible for, correct? 09:45:20a

8 A True. Correct. 09:45:22a

9 Q Have you ever spoken to Mr. Berger about 09:45:23a

10 those issues? 09:45:25a

11 A Actually, no. I've made it kind of -- 09:45:26a

12 didn't want to talk to him after I found all 09:45:29a

13 this. 09:45:32a

14 Q You've reported it to the company, 09:45:33a

15 correct? 09:45:34a

16 A I reported it to Rick, yes. And what 09:45:34a

17 he's -- and now I'm talking to Pat Doss about it. 09:45:36a

18 Q Ms. Doss is in payroll in Virginia, 09:45:40a

19 correct? 09:45:43a

20 A Yes. 09:45:44a

21 Q Is it correct that Ms. Camp came out to 09:45:45a

22 investigate the situation at your store? 09:45:48a

23 A Well, she came out Tuesday and asked for 09:45:49a

24 some records, and that's all. She asked me if I 09:45:56a

25 had any questions or anything. But that was 09:46:00a

1 A For the truck, it's quick. The stockers 10:32:17a
2 know that it's going to be flexible. So I make 10:32:25a
3 the schedule the same every week. And then when 10:32:27a
4 we -- we don't get it until Monday morning and 10:32:29a
5 the truck is coming on Wednesday. So Monday 10:32:33a
6 morning I know when the truck is coming. 10:32:35a
7 And, in fact, I don't even talk to -- 10:32:38a
8 what's his name -- Leonardo -- there goes my 10:32:46a
9 memory again -- until Tuesday, and we just make a 10:32:53a
10 quick -- and usually he even takes care of it. 10:32:56a
11 He knows what to look for and things like that. 10:32:59a
12 And then we usually bring in people. He 10:33:01a
13 comes in the morning with one person, and we 10:33:03a
14 bring the rest in a half an hour after the truck 10:33:06a
15 comes in. 10:33:08a
16 Q My question really went to your 10:33:09a
17 scheduling review throughout the week, not just 10:33:12a
18 related to when freight arrives. 10:33:14a
19 How much time do you think you spend, on 10:33:16a
20 any given day, looking at the schedule, 10:33:17a
21 considering unforeseen circumstances, making 10:33:19a
22 adjustments? 10:33:22a
23 A Couple minutes. It's not that much. I 10:33:26a
24 think when you're looking at one day, you have a 10:33:29a
25 lot more clarity than looking at a whole week and 10:33:31a

1 duties will be affected by the volume of the 10:46:52a
2 store, the sales volume of the store? 10:46:55a
3 MR. FIETZ: Objection. Vague. 10:46:57a
4 BY MS. MCCLAIN: 10:46:59a
5 Q Do you understand that the busier the 10:46:59a
6 store, the more work you have in scheduling, for 10:47:01a
7 example? 10:47:04a
8 A It just seems to be -- you know, once 10:47:04a
9 you have a set template of what you're going to 10:47:19a
10 do with a store, it just seems to follow with 10:47:22a
11 that. It's not really anything changing -- I 10:47:25a
12 would say, yes, there's going to be more 10:47:26a
13 scheduling, you're going to schedule more people, 10:47:29a
14 things like that. 10:47:32a
15 But everything is done -- basically, you 10:47:33a
16 can do a road map of what you're going to do. 10:47:36a
17 And on busy days, you can add somebody here and 10:47:40a
18 take somebody away there to save it. 10:47:43a
19 So, yeah, different stores are going to 10:47:45a
20 have different road maps. But once you have the 10:47:49a
21 road map, you're just going to pretty much repeat 10:47:51a
22 that road map. 10:47:54a
23 Q Did you find that you had more 10:47:55a
24 personnel-related functions in 1868 because it 10:47:57a
25 was busier? Did you have more people, for 10:48:00a

1 had deleted time from Tina Toler's work records? 03:23:26p

2 A I mean, I don't remember ever doing it, 03:23:31p

3 period. So... 03:23:35p

4 Q So if you didn't do it, you wouldn't 03:23:36p

5 have discussed it, correct? 03:23:38p

6 A Correct. 03:23:39p

7 Q Did you ever delete time from Tina Toler 03:23:39p

8 or anyone else's time records in front of 03:23:45p

9 Ms. Lofquist? 03:23:47p

10 A I don't -- 03:23:53p

11 Q I mean, taking away time that was 03:23:54p

12 actually worked? 03:23:56p

13 A I don't recall doing -- I don't remember 03:23:57p

14 ever doing that. I mean, I think the only thing 03:24:02p

15 that I remember doing is the overtime thing. I 03:24:09p

16 don't remember because I didn't want to get into 03:24:11p

17 the issue. Because when I got to Dollar Tree, 03:24:14p

18 there seemed to be a lot of issues of people of 03:24:18p

19 time shaving, of things that I heard, and I never 03:24:23p

20 wanted to get into that kind of a problem. So I 03:24:26p

21 remember thinking that wasn't something that I 03:24:30p

22 really wanted to get into. 03:24:33p

23 Q You told me on the first day of your 03:24:34p

24 deposition that you had heard rumors and hearsay 03:24:46p

25 that DMs were altering time, but that you had no 03:24:48p

1	factual knowledge to that effect.	03:24:51p
2	Do you recall that testimony?	03:24:53p
3	A Yes.	03:24:55p
4	Q Is that what you're referring to, these	03:24:56p
5	rumors and hearsay, when you say that there seem	03:25:04p
6	to be a lot of people shaving time?	03:25:07p
7	A Well, no, these were actual people	03:25:09p
8	talking about it a lot.	03:25:13p
9	Q People talked to you, when you first got	03:25:15p
10	to Dollar Tree, about shaving time, but you never	03:25:18p
11	observed it --	03:25:24p
12	A I never physically observed it being	03:25:26p
13	done. But there was numerous complaints of	03:25:28p
14	people noticing hours missing off their checks.	03:25:33p
15	Q Did you ever investigate any of those	03:25:37p
16	complaints?	03:25:39p
17	A At the time, I didn't have the capacity	03:25:39p
18	to.	03:25:41p
19	Q Did you ever investigate any of those	03:25:41p
20	complaints?	03:25:43p
21	A No.	03:25:43p
22	Q Do you agree that there can be mistakes	03:25:44p
23	in payroll, honest mistakes?	03:25:50p
24	A Honest mistakes, yeah. I believe it	03:25:52p
25	could be. Uh-huh.	03:25:55p

1	I'm not sure if it was because we were	03:29:09p
2	more in control, the managers were more in	03:29:11p
3	control of inputting hours, or whatever. But it	03:29:13p
4	was more visible to assistants what was going on	03:29:18p
5	with the payroll.	03:29:22p
6	So it seemed like those problems might	03:29:23p
7	have either been remedied or just -- I don't	03:29:28p
8	know. They just seemed to be diminishing.	03:29:32p
9	Q Compass was a replacement time tracking	03:29:35p
10	payroll system, correct?	03:29:39p
11	A Correct.	03:29:41p
12	Q Do you recall what the earlier system	03:29:41p
13	was?	03:29:44p
14	A I have no clue.	03:29:44p
15	Q Were you trained to use the earlier	03:29:45p
16	system?	03:29:48p
17	A No.	03:29:49p
18	Q The only way you used the earlier system	03:29:49p
19	was punching in and out; is that right?	03:29:51p
20	A Correct.	03:29:53p
21	Q Do you recall when Compass came into	03:29:54p
22	being?	03:29:56p
23	A No. I don't, actually.	03:29:56p
24	Q And, in any event, that's certainly	03:29:58p
25	consistent with your understanding of company	03:30:03p

1	didn't make the change at the time. I don't	04:31:32p
2	know.	04:31:34p
3	THE VIDEOGRAPHER: This concludes Videotape	04:31:37p
4	Number 3, Volume 2. The time is approximately	04:31:41p
5	4:31 p.m. We are now off the record.	04:31:44p
6	(Recess taken from 4:31 p.m. to 4:35 p.m.)	04:31:46p
7	THE VIDEOGRAPHER: This is the beginning of	04:35:32p
8	Videotape Number 4 of Volume 2 of the deposition	04:35:50p
9	of John Hansen in the case of Miguel A. Cruz and	04:35:53p
10	John Hansen versus Dollar Tree Stores,	04:35:57p
11	Incorporated, et al. Today's date is November 1,	04:36:00p
12	2007. We are now on the record.	04:36:03p
13	BY MS. MCCLAIN:	04:36:06p
14	Q Looking at Ms. Kosinski's time,	04:36:06p
15	Mr. Hansen, for June 30, 2006?	04:36:09p
16	A Uh-huh.	04:36:13p
17	Q You once again used Rebecca's password	04:36:14p
18	and made a change in her start time, correct?	04:36:20p
19	A Made a change in her start time. Yes.	04:36:26p
20	Okay. From --	04:36:31p
21	Q She punched in at 11:58, and you changed	04:36:35p
22	it to a punch that was three minute later;	04:36:39p
23	correct?	04:36:44p
24	A Okay.	04:36:44p
25	Q Agreed?	04:36:45p

1	A	Agreed.	04:36:47p
2	Q	Did you do that to keep Ms. Kosinski	04:36:49p
3		under five hours or at five hours?	04:37:01p
4	A	It looks like she was over five hours.	04:37:05p
5	Q	You see you also changed her end shift	04:37:16p
6		time, correct? She punched out at 17:08, and you	04:37:19p
7		changed it to 17:00, correct?	04:37:24p
8	A	I mean -- I can't recall why.	04:37:27p
9	Q	Do you agree with me that you made that	04:37:39p
10		change to deprive her of eight minutes?	04:37:42p
11	A	Well, I assume I would have. For what	04:37:46p
12		reason, I don't know why. Maybe -- I'm not	04:37:51p
13		sure. Maybe if she clocked in and out late, I	04:38:00p
14		don't know. Or, I mean, she clocked in early.	04:38:04p
15		Maybe didn't start to work.	04:38:07p
16		She used to clock in and would go to the	04:38:09p
17		back and put her stuff away and things like	04:38:12p
18		that. And maybe I didn't feel that was time	04:38:14p
19		worked, that was -- or something. I really	04:38:21p
20		honestly don't remember -- couldn't recall why I	04:38:24p
21		did it on this instance.	04:38:27p
22	Q	The changes in her punches leave her	04:38:30p
23		working precisely five hours, correct, from	04:38:44p
24		12:00 -- or very close to five hours. From 12	04:38:49p
25		noon to 5:00?	04:38:52p

1 A Yes. Yeah. Three hours, 59 -- four 04:38:55p
2 hours and 59 minutes. 04:39:01p
3 Q Her actual punches put her a little over 04:39:02p
4 five hours, correct? 04:39:06p
5 A Uh-huh. 04:39:07p
6 Q Yes? 04:39:08p
7 A Yes. 04:39:08p
8 Q So the change deprived her of minutes, 04:39:09p
9 but those minutes brought her to five hours, 04:39:15p
10 correct? 04:39:17p
11 A Yes. 04:39:18p
12 Q Did you do that so that you would have a 04:39:20p
13 record that she had no lunch entitlement, no meal 04:39:24p
14 period entitlement? 04:39:27p
15 A I don't recall. 04:39:29p
16 Q Did you ever do that, change an 04:39:29p
17 employee's time taking off just a few minutes so 04:39:32p
18 that it would look like they only worked five 04:39:36p
19 hours? 04:39:38p
20 A I don't recall if I did that or not. I 04:39:39p
21 -- you know, all I know is now I don't do things 04:39:42p
22 like that. I don't remember if I was thinking of 04:39:48p
23 doing stuff like that then. 04:39:50p
24 Q When did you stop doing things like 04:39:52p
25 that? 04:39:55p

1	be the one that actually went into the system,	04:45:18p
2	correct?	04:45:20p
3	A Sure.	04:45:20p
4	Q Is that right?	04:45:20p
5	A Correct.	04:45:21p
6	Q Ms. Richmond punched out at 13:47 on	04:45:28p
7	that same day, correct?	04:45:36p
8	A Yes.	04:45:39p
9	Q And you, at the same time that you	04:45:41p
10	changed the start shift, made a change in the end	04:45:45p
11	shift, correct?	04:45:50p
12	A Correct.	04:45:50p
13	Q To take off 17 minutes, correct?	04:45:52p
14	A Yes.	04:45:58p
15	Q Why did you make those changes?	04:45:58p
16	A I don't know.	04:46:31p
17	Q Do you have any idea?	04:46:31p
18	A No.	04:46:37p
19	Q The changes reduced the shift to eight	04:46:38p
20	hours, correct?	04:46:58p
21	A You would have to do the math for me, if	04:46:59p
22	that's correct.	04:47:03p
23	Q Why don't you do the math.	04:47:04p
24	A Isn't that more than eight hours? Isn't	04:47:20p
25	that -- I mean, if you go from two o'clock to	04:47:33p

1 1:30, that's, like, you know -- that's 11 hours, 04:47:39p
2 isn't it? Unless there was a long lunch. I 04:47:51p
3 guess. 04:48:01p
4 Q Look at the lunch and calculate that, 04:48:01p
5 please. 04:48:03p
6 A Okay. I guess there was -- two and a 04:48:03p
7 half hour lunch. So it looks like I made it to 04:48:05p
8 eight hours, yes. I'm not sure why she would be 04:48:22p
9 working that long. 04:48:27p
10 Q You made it to eight hours by changing 04:48:29p
11 the start time and the end time to reduce 18 04:48:45p
12 minutes, correct? 04:48:55p
13 A It looks like it, yes. 04:48:57p
14 Q Were you depriving Ms. Richmond of 04:49:00p
15 overtime that she worked on 6/28/2006? 04:49:05p
16 A I honestly can't remember if I was or 04:49:12p
17 not. I don't know. 04:49:18p
18 Q You can't tell from this -- 04:49:19p
19 A I mean, to look at it, yes. I would 04:49:21p
20 have to say just looking at this, I would have to 04:49:23p
21 say that's what I was doing. But I don't know 04:49:27p
22 what the circumstances. Like before, I don't 04:49:31p
23 know what the circumstances were. 04:49:32p
24 Q You remember that you did that extremely 04:49:34p
25 rarely. So you would expect there to be other 04:49:37p

1	Q	Looking at Ms. Bassignani's time,	04:57:00p
2		please, which is on the second page. We see that	04:57:09p
3		there are some apparent changes on 7/7/2006.	04:57:24p
4		That is -- my reference is to time initially	04:57:34p
5		entered on 7/7/2006, apparently made by	04:57:36p
6		Ms. Murphy on 7/8/2006, correct?	04:57:40p
7	A	Uh-huh.	04:57:43p
8	Q	Yes?	04:57:46p
9	A	Yes.	04:57:46p
10	Q	Are you with me?	04:57:47p
11	A	Yes.	04:57:48p
12	Q	And that's how you would read this	04:57:48p
13		document, correct? That, for example, there is a	04:57:51p
14		change in the start lunch punch and -- on 7/7, so	04:57:53p
15		that 12 minutes is added to the lunch, correct?	04:58:00p
16	A	I'm trying to find it here. 12 minutes	04:58:06p
17		added to the lunch. I'm not seeing that. But --	04:58:27p
18		oh, wait. Maybe -- I'm sorry. I'm looking on	04:58:29p
19		the wrong one.	04:58:31p
20	Q	It's 4564.	04:58:32p
21	A	Okay. Wait a minute. Down here. I was	04:58:34p
22		looking at the completely wrong place.	04:58:36p
23	Q	It's 7/7/2006.	04:58:38p
24	A	Start lunch. Yes. Okay. I see that	04:58:40p
25		now.	04:58:44p

1	Q	So that edit changes the lunch, which	04:58:45p
2		had been a 30-minute lunch, to a 42-minute lunch,	04:58:50p
3		correct?	04:58:54p
4	A	Correct.	04:58:55p
5	Q	And do you believe that Ms. Murphy was	04:59:03p
6		the person who made that change?	04:59:05p
7	A	I don't have any other reason to believe	04:59:06p
8		that she didn't.	04:59:10p
9	Q	Did you ever direct any assistant	04:59:11p
10		manager working for you at 1868 to make edit	04:59:16p
11		changes in employees' time to deprive them of time	04:59:21p
12		worked or overtime?	04:59:28p
13	A	No. Not that I can recall.	04:59:30p
14	Q	Do you have any knowledge that any of	04:59:32p
15		your assistant managers ever did that?	04:59:33p
16	A	Not that I -- not that I noticed or	04:59:36p
17		recall.	04:59:41p
18	Q	Did you review the punches and edits	04:59:41p
19		that your assistant managers made?	04:59:51p
20	A	Not necessarily. Because if there was	04:59:53p
21		no warnings, it wasn't brought to my attention	04:59:57p
22		that there was edits made.	05:00:00p
23	Q	Didn't you go over everybody's punches	05:00:03p
24		and edits before you approved payroll?	05:00:06p
25	A	Not in detail, no.	05:00:09p

1	that point. So I don't remember ever having	05:07:34p
2	Lisa's.	05:07:37p
3	Q So on 7/7, if we look at the punches,	05:07:39p
4	the first thing that happened is that 12 minutes	05:07:44p
5	was added to lunch, correct?	05:07:46p
6	A Yes.	05:07:48p
7	Q And the second thing that happened was	05:07:48p
8	that six minutes was taken off the end of the	05:07:52p
9	shift, correct?	05:08:01p
10	MR. FIETZ: I apologize, Ms. McClain. I've	05:08:13p
11	gotten off which one we are looking at. Can you	05:08:17p
12	tell me?	05:08:19p
13	MS. MCLAIN: Yes. We are on 4564, 7/7/2006.	05:08:20p
14	Ms. Bassignani's time.	05:08:27p
15	THE WITNESS: I see that.	05:08:28p
16	MR. FIETZ: Thank you.	05:08:29p
17	THE WITNESS: Yes. Six minutes.	05:08:30p
18	BY MS. MCCLAIN:	05:08:31p
19	Q So that's a total of 18 minutes taken	05:08:31p
20	off time, correct?	05:08:38p
21	A Yes.	05:08:39p
22	Q And does that reduce the day to 8.5 with	05:08:42p
23	.5 for lunch?	05:08:58p
24	A Yeah. It sounds right.	05:09:01p
25	Q Do you have any factual understanding to	05:09:06p

1 tell me whether it is correct or not correct that 05:09:08p
2 the edits made, with respect to this time, 05:09:12p
3 deprived Ms. Bassignani of overtime to the tune 05:09:17p
4 of 18 minutes? 05:09:24p
5 A It appears so. 05:09:25p
6 Q And can you tell me whether there's a 05:09:29p
7 legitimate explanation for that situation? 05:09:31p
8 A No, I could not. 05:09:32p
9 Q Do you think there was a legitimate 05:09:34p
10 explanation, or would it be total speculation on 05:09:37p
11 your part to say one way or the other whether it 05:09:39p
12 was legitimate or illegitimate? 05:09:41p
13 A Complete speculation. 05:09:42p
14 Q And you can't tell just by looking at 05:09:45p
15 this punch edit report whether it was legitimate 05:09:47p
16 or illegitimate, correct? 05:09:50p
17 A No. 05:09:51p
18 Q Is that right? 05:09:52p
19 A Correct. 05:09:52p
20 Q If you look at your time for July 4th, 05:10:15p
21 2006. 05:10:20p
22 A Yes. 05:10:31p
23 Q There is a change in the start shift, 05:10:32p
24 correct, adding about 3.6 hours, correct? 05:10:33p
25 A Okay. Right. 05:10:39p

1	A	Uh-huh.	05:27:51p
2	Q	Yes?	05:27:51p
3	A	Yes.	05:27:52p
4	Q	This is a change you made on July 4 at	05:27:52p
5		12:41, correct?	05:27:58p
6	A	Correct.	05:27:59p
7	Q	The change you made was to lengthen the	05:28:00p
8		start lunch, correct? The punch in for start	05:28:08p
9		lunch was 12:16, and you changed it to a start	05:28:12p
10		lunch of 12:00, correct?	05:28:15p
11	A	Okay. Yes.	05:28:18p
12	Q	Adding 16 minutes to the lunch time and	05:28:19p
13		hence non-paid time, correct?	05:28:22p
14	A	Okay.	05:28:24p
15	Q	Yes?	05:28:25p
16	A	Yes.	05:28:26p
17	Q	Can you tell me why you did that?	05:28:26p
18	A	No.	05:28:29p
19	Q	Can you tell me whether it was a	05:28:33p
20		legitimate change or an illegitimate change?	05:28:36p
21	A	No, I could not.	05:28:38p
22	Q	Looking at this, you simply can't tell	05:28:40p
23		me; is that right?	05:29:01p
24	A	Correct.	05:29:02p
25	Q	Was it the case that from time to time	05:29:03p

1 people took two hour lunches? 05:29:09p
2 A If they needed to work a split shift. 05:29:12p
3 Q Is it right that from time to time 05:29:17p
4 employees asked you if they could leave and come 05:29:19p
5 back? 05:29:22p
6 A No. It was usually -- they were asked 05:29:22p
7 if someone called in sick. 05:29:24p
8 Q And can you tell whether that's the case 05:29:27p
9 here or not? 05:29:32p
10 A It looks to be that she had to work a 05:29:32p
11 split shift for some reason or another. 05:29:35p
12 Q Was there ever a case when you -- when 05:29:36p
13 employees asked to be able to work a split shift 05:29:39p
14 for their own personal convenience? 05:29:41p
15 A I can't recall any, off the top of my 05:29:44p
16 head. 05:29:46p
17 Q Do you believe that you made that change 05:29:46p
18 to reduce her time that day to eight hours of 05:30:37p
19 work time? 05:30:46p
20 A It could have been. 05:30:47p
21 Q You're guessing? 05:30:48p
22 A I'm guessing. 05:30:49p
23 Q You can't actually tell, and you don't 05:30:51p
24 know, and you don't recall, right? 05:30:53p
25 A Right. 05:30:54p

1	A	Correct.	05:34:37p
2	Q	She failed to punch in for a second	05:34:39p
3		break, correct?	05:34:42p
4	A	Correct.	05:34:42p
5	Q	Either in or out. And then punched out	05:34:43p
6		for her shift, correct?	05:34:47p
7	A	Yes.	05:34:49p
8	Q	You supplied the missing punches,	05:34:51p
9		correct?	05:34:55p
10	A	Correct.	05:34:55p
11	Q	And did you do so using accurate	05:34:55p
12		information with respect to her break and meal	05:35:00p
13		time? That is, is the final column of punching,	05:35:03p
14		including your edits, accurate?	05:35:09p
15	A	I cannot say for sure.	05:35:11p
16	Q	I thought you told us earlier that you	05:35:14p
17		always attempted to find out the real time, the	05:35:17p
18		actual time worked, before you added missed	05:35:22p
19		punches?	05:35:26p
20	A	I tried to, yes.	05:35:26p
21	Q	So is it your testimony that, from all	05:35:27p
22		appearances, these edits on your part were adding	05:35:31p
23		correct actual time, both break time and work	05:35:37p
24		time?	05:35:40p
25	A	Correct.	05:35:40p

1 Q If you look at 8/15, please, for 05:35:41p
2 Ms. Bassignani on 0025. 05:35:59p
3 A Okay. 05:36:05p
4 Q We see that you increased 05:36:06p
5 Ms. Bassignani's lunch time by 20 minutes, 05:36:15p
6 correct? She punched an end lunch at 11:36 and 05:36:19p
7 you edited that to have an end lunch 20 minutes 05:36:24p
8 later at 11:56, correct? 05:36:27p
9 A Yes. 05:36:31p
10 Q You, therefore, gave her a longer lunch 05:36:33p
11 time of unpaid time, correct? 05:36:35p
12 A Correct. 05:36:37p
13 Q Did you do that because she took a 05:36:38p
14 longer lunch or did you do that to bring her down 05:36:42p
15 to an eight-hour workday? 05:36:44p
16 A It may have been to cut it down. I 05:36:47p
17 don't remember, to be honest. 05:36:54p
18 Q Your answer is, I don't know? 05:36:55p
19 A I don't know. Yeah. 05:36:56p
20 Q Either one is possible? 05:36:58p
21 A Either one is possible. 05:36:59p
22 Q If you look at Ms. Bassignani on 8/18, 05:37:01p
23 please, we see that you made a punch change for 05:37:22p
24 the start shift that provided Ms. Bassignani with 05:37:31p
25 two more minutes of work, correct? Her punch in 05:37:35p

1	Q	Correct?	05:58:58p
2	MR. FIETZ:	Asked and answered.	05:58:58p
3	THE WITNESS:	I'll have to say that was my	05:58:59p
4		intention, to be as honest as I could. And I	05:59:08p
5		think, looking at it, you know, I -- I don't know	05:59:13p
6		what was going through my mind at that time, you	05:59:19p
7		know. Maybe just excitement of a new job and not	05:59:22p
8		trying to -- and trying not to screw up and do	05:59:29p
9		things and look at punches and --	05:59:32p
10	BY MS. MCCLAIN:		05:59:36p
11	Q	When did the excitement wear off,	05:59:36p
12	Mr. Hansen?		05:59:38p
13	A	When I -- I don't know. It just -- when	05:59:38p
14		the guilt, maybe, overcame me that I was doing	05:59:47p
15		the wrong thing. I don't know. I honestly don't	05:59:50p
16		know why I started doing it, except for the fact	05:59:53p
17		that maybe I wanted to not get in trouble.	05:59:56p
18	Q	You're speculating?	05:59:59p
19	A	Well, I know that --	06:00:00p
20	Q	Because you don't have any basis for	06:00:02p
21		saying you would get in trouble, do you?	06:00:04p
22	A	Well, it was always talked about not to	06:00:05p
23		have -- not to go over on hours and not to have	06:00:07p
24		overtime. It was a constant thing. I mean, you	06:00:09p
25		see in it all the e-mails from -- not only Rick.	06:00:12p

1 I'm sure if we went back from Mike, it was 06:00:15p
2 consistent e-mails. I remember hearing about it 06:00:18p
3 all the time, when I was working for Rick. 06:00:20p
4 Q I also see payments for overtime on lots 06:00:22p
5 of occasions for lots of different people, 06:00:25p
6 including you? 06:00:27p
7 A I understand. I don't know why I did 06:00:27p
8 what I did. 06:00:32p
9 Q Do you have any question, Mr. Hansen, 06:00:32p
10 but that you should be fired for this? 06:00:42p
11 A Do I have any question? 06:00:43p
12 Q For making time changes against company 06:00:46p
13 policy? 06:00:48p
14 MR. FIETZ: Objection. Argumentative. 06:00:49p
15 BY MS. MCCLAIN: 06:00:52p
16 Q Don't you believe that the changes we 06:00:52p
17 have looked at, if they were done for legitimate 06:00:55p
18 reasons, is a basis for termination? 06:00:57p
19 A It's a basis for termination. I would 06:00:59p
20 -- yes. 06:01:03p
21 Q So you made a change in Ms. Bassignani's 06:01:03p
22 end shift on August 24, correct? You gave her 30 06:01:14p
23 more minutes, correct? 06:01:22p
24 A The 24th? 06:01:23p
25 Q Yes. Ms. Bassignani clocked out at 06:01:30p

1	A	Correct.	06:17:30p
2	Q	You, then, entered at end shift	06:17:37p
3		consistent with the time she has written on the	06:17:39p
4		time clockwork sheet, correct?	06:17:42p
5	A	Uh-huh.	06:17:44p
6	Q	Of 12:14; correct?	06:17:44p
7	A	Yeah.	06:17:47p
8	Q	Then you immediately change that to an	06:17:49p
9		end shift of 12:00. Can you explain why you did	06:17:52p
10		that?	06:17:57p
11	A	Probably to make it around five hours so	06:17:58p
12		I wouldn't have to put an approval of --	06:18:05p
13	Q	Pardon me?	06:18:12p
14	A	Probably to make it around five hours so	06:18:13p
15		she wouldn't have to take a lunch.	06:18:16p
16	Q	Do you speculate that you deprived	06:18:20p
17		Ms. Avalos of 14 minutes of pay on 9/28 or for	06:18:40p
18		time worked on 9/28?	06:18:49p
19	A	Yes. Unless I added it somewhere else,	06:18:50p
20		which I don't know if I did or not.	06:18:55p
21	Q	Did anybody ever discipline you or	06:18:57p
22		criticize you in any manner for employees working	06:19:11p
23		over five hours?	06:19:13p
24	A	It was talked about a lot, yes, to keep	06:19:16p
25		under five hours.	06:19:21p

1	Q	That wasn't my question. That wasn't my	06:19:25p
2		question. Generally speaking --	06:19:30p
3	A	Was I ever written up, is that what	06:19:31p
4		you're asking?	06:19:32p
5	Q	Let me finish my question.	06:19:33p
6	A	Okay.	06:19:33p
7	Q	Generally speaking, the rule was try to	06:19:33p
8		keep part-timers under five hours, correct?	06:19:36p
9	A	Correct.	06:19:38p
10	Q	And there were times when you had part-	06:19:39p
11		time employees who worked more than five hours,	06:19:43p
12		correct?	06:19:46p
13	A	Yes.	06:19:46p
14	Q	Were you ever written up for that?	06:19:49p
15	A	No.	06:19:50p
16	Q	Were you ever criticized in any way for	06:19:51p
17		that?	06:19:55p
18	A	Yes.	06:19:57p
19	Q	By whom?	06:19:57p
20	A	I know Rick does it now; I don't	06:19:58p
21		remember then.	06:20:04p
22	Q	Mr. Tellstrom wasn't the district	06:20:05p
23		manager in September of 2006, was he?	06:20:07p
24	A	He may have been the area manager at the	06:20:09p
25		time, but I don't remember.	06:20:13p

1	I always needed to cover up on -- I felt like	06:22:29p
2	these were mistakes that I made in not being a	06:22:33p
3	good manager, I guess, of a store.	06:22:36p
4	Q Every time you did that, did you say to	06:22:39p
5	yourself, boy, I hope I don't get caught, I'm	06:22:41p
6	violating company policy?	06:22:44p
7	A I don't remember.	06:22:45p
8	Q Did you have that thought on occasion,	06:22:50p
9	"I hope I don't get caught"?	06:22:52p
10	A No. I think afterwards -- I remember at	06:22:54p
11	one time thinking -- having a really bad feeling	06:22:59p
12	of what I was doing, but I don't remember.	06:23:04p
13	Q Because you knew every time you made a	06:23:08p
14	change that interfered with an employee's work or	06:23:11p
15	misrepresented when they took lunch, that you	06:23:15p
16	were violating company policy, correct?	06:23:17p
17	A Correct.	06:23:19p
18	Q Would you turn to Lisa Murphy, please?	06:23:19p
19	A Okay.	06:23:50p
20	Q On 9/28. Ms. Murphy has filled out the	06:23:51p
21	Time Clock Worksheet for 9/28, correct?	06:24:13p
22	A Uh-huh.	06:24:15p
23	Q Were you using the Time Clock Worksheet	06:24:16p
24	to guide your punch edits for 9/28?	06:24:22p
25	A Looks like it's pretty straightforward.	06:24:29p

1	Q	You changed that punch out for lunch,	06:29:25p
2		correct?	06:29:29p
3	A	Yes.	06:29:30p
4	Q	You initially changed it to a punch out	06:29:31p
5		starting at 10:00, which would have been an	06:29:35p
6		increase in the lunch of an hour and 25 minute;	06:29:37p
7		correct?	06:29:41p
8	A	Uh-huh.	06:29:43p
9	Q	Yes?	06:29:43p
10	A	Yes.	06:29:44p
11	Q	And you, then, immediately made another	06:29:44p
12		change to 10:51?	06:29:48p
13	A	Uh-huh.	06:29:50p
14	Q	Correct?	06:29:50p
15	A	Correct.	06:29:51p
16	Q	Which changes the lunch by some 34	06:29:51p
17		minutes, correct?	06:30:13p
18	A	Correct.	06:30:14p
19	Q	Ms. Kosinski punched out at 17:17, that	06:30:14p
20		is 5:17, and you changed the punch out to 4:30 in	06:30:27p
21		the afternoon, correct?	06:30:33p
22	A	Okay.	06:30:34p
23	Q	Thereby reducing another 47 minutes,	06:30:35p
24		correct?	06:30:41p
25	A	Correct.	06:30:41p

1	Q	So all told, you -- thereby adding time	06:30:42p
2		to the lunch or reducing time in the end shift,	06:30:50p
3		took away approximately an hour and 20 minutes;	06:30:53p
4		correct?	06:30:56p
5	A	Correct.	06:30:56p
6	Q	Why did you do that?	06:30:57p
7	A	That one looks more likely just to	06:30:58p
8		reduce the overtime.	06:31:02p
9	Q	Why do you say that?	06:31:03p
10	A	It's just the normal punches in and they	06:31:09p
11		are just drastically changed.	06:31:12p
12	Q	Did Ms. Kosinski ever complain about	06:31:23p
13		this instance?	06:31:26p
14	A	Yes. I -- well, actually, it was	06:31:30p
15		never -- I talked to her about it. I remember	06:31:33p
16		having a discussion with her about this.	06:31:36p
17	Q	Did Ms. Kosinski complain about it? Did	06:31:54p
18		she say, I've looked at my paycheck and it's	06:32:00p
19		missing an hour and 20 minutes or so?	06:32:03p
20	A	No. I'm assuming I added it somewhere	06:32:04p
21		else because --	06:32:08p
22	Q	Because why?	06:32:11p
23	A	Because that was a discussion that I had	06:32:12p
24		with her.	06:32:16p
25	Q	How did that discussion arise?	06:32:18p

1	MS. MCCLAIN: Ms. Reporter, please.	06:38:26p
2	Q See that, on October 11, 2006	06:38:28p
3	Ms. Bassignani had a punch out at 16:16,	06:38:33p
4	correct?	06:38:37p
5	A Uh-huh.	06:38:37p
6	Q So that's 4:16 in the afternoon,	06:38:38p
7	correct?	06:38:43p
8	A Yeah.	06:38:44p
9	Q And you initially reduced that punch out	06:38:44p
10	by nine minutes, correct?	06:38:55p
11	A Yes.	06:38:56p
12	Q That reduction brought Ms. Bassignani to	06:38:57p
13	eight hours of work, correct?	06:39:01p
14	A Yes.	06:39:02p
15	Q You did that on October 11th, correct?	06:39:03p
16	A Yeah.	06:39:10p
17	Q That change, which reduced the nine	06:39:11p
18	minutes of overtime. On October 14, which is,	06:39:14p
19	what, three days later, you made another change,	06:39:17p
20	correct?	06:39:20p
21	A Yes.	06:39:20p
22	Q Restoring the initial punch, thereby	06:39:21p
23	giving Ms. Bassignani nine minutes of overtime,	06:39:25p
24	correct?	06:39:28p
25	A Correct.	06:39:28p

1 Q You also filled out a warning notice for 06:39:28p
2 Ms. Bassignani for working nine minutes into 06:39:41p
3 overtime, correct? 06:39:44p
4 A Correct. 06:39:44p
5 Q So do you think what happened here is 06:39:45p
6 you initially deleted the nine minutes and then 06:39:47p
7 you said, no, I better discipline her for this, 06:39:50p
8 but I better pay her for the time, if I'm going 06:39:53p
9 to discipline her? 06:39:56p
10 A Yeah. In fact, this -- I remember doing 06:39:56p
11 this and I thought this was when I stopped. This 06:39:59p
12 is why I thought I had done it only for a short 06:40:03p
13 time because I remember thinking this is not 06:40:06p
14 right, and I have to stop doing this. But I 06:40:09p
15 guess the fear of losing my job was more than I 06:40:14p
16 thought it was. 06:40:18p
17 Q Why wouldn't you be just as afraid of 06:40:18p
18 losing your job for violating company policy? 06:40:22p
19 A I don't know. I guess I didn't feel I 06:40:25p
20 was going to get caught for doing it at the 06:40:27p
21 time. And that was it. I don't know. I just 06:40:32p
22 felt like it wouldn't show up on a report that -- 06:40:36p
23 you know, an initial report, that changes were 06:40:44p
24 being made or whatever. So -- 06:40:47p
25 Q Did Ms. Bassignani ever complain to you 06:41:12p

1 STATE OF CALIFORNIA)

2 COUNTY OF SONOMA)

3 I, LINDA VACCAREZZA, a Certified Shorthand
4 Reporter of the State of California, duly
5 authorized to administer oaths pursuant to
6 Section 2025 of the California Code of Civil
7 Procedure, do hereby certify that

8 JOHN D. HANSEN,

9 The witness in the foregoing examination,
10 was by me duly sworn to testify the truth, the
11 whole truth and nothing but the truth in the
12 within-entitled cause; that said testimony of
13 said witness was reported by a disinterested
14 person, and was thereafter transcribed under my
15 direction into typewriting and is a true and
16 correct transcription of said proceedings.

17 I further certify that I am not of counsel
18 or attorney for either or any of the parties in
19 the foregoing examination and caption named, nor
20 in any way interested in the outcome of the cause
21 named in said caption.

22 Dated the 14th day of November, 2007.

23 _____
24 LINDA VACCAREZZA, RPR, CSR #10201
25

Preferred Reporters
201 E. Watmaugh Road
Sonoma, California 95476

November 15, 2007

To: John D. Hansen
EDGAR LAW FIRM
ATTENTION:: JEREMY R. FIETZ, ESQUIRE
408 College Avenue
Santa Rosa, CA 95401

Re: Cruz, Hansen v. Dollar Tree Store
Deposition taken on November 1, 2007
Reported by Linda Vaccarezza

Dear Mr. Hansen,

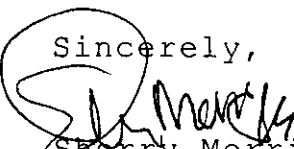
The original transcript of your deposition taken in the above-entitled action has been prepared and is available at this office for your reading, correcting and signing.

You may wish to discuss this matter with your attorney to determine if counsel requires that the original transcript of your deposition be read, corrected and signed by you before it is sealed.

Your rights regarding signature of this deposition are contained in the California Code of Civil Procedure.

If you wish to make arrangements to review the original transcript of your deposition, please contact this office during office hours, 9:00 to 5:00 Monday through Friday, to make an appointment to review the original transcript.

Sincerely,


Sherry Morrison
Office Manager

cc: All Counsel